



Town of Harpswell
Planning Board Minutes
September 21, 2016
Adopted October 19, 2016

Members Present

David I. Chipman, Chair
Aaron Fuchs
Burr Taylor
John Papacosma
Allan LeGrow, Associate Member

Members Absent

Paul Standridge

Staff Present

Mark Eyerman, Planner
Diane Plourde, Recording Secretary

The Town of Harpswell Planning Board meeting was called to order at 6:30 p.m. by David Chipman, Chair. The Pledge of Allegiance was recited.

The Chair appointed Allan LeGrow a full voting member for this meeting.

New Business – 16-09-01 – David Fey (Applicant/Owner) Map 7 Lot 73, 268 High Head Road, Harpswell – Minor Subdivision Amendment

David Fey told the Board that his property has been shown as two lots and his house straddles the two lots. The town tax office has shown the properties as combined lots. He wants to realign the town map to show the property as a single lot and to show conformity. He is concerned with setback issues if the property is sold or inherited by family members. The High Head Association has been assessing the property as two lots and has been paying association dues for two lots.

The Planner said this is a subdivision amendment and does not create an extra lot within the subdivision.

John Peters, President High Head Association, told the Board the High Head Yacht Club has no issues. With respect to the assessment, they will ask legal help to see if Mr. Fey's request is legal because the subdivision will be decreased by one lot and the shares distributed to other homeowners.

Aaron Fuchs moved seconded by David Chipman that the Planning Board finds that the application of David Fey for a lot line amendment meets standard 9.1. Conformance of the Subdivision Ordinance that all proposed developments must be in conformity with all pertinent local, State, and Federal ordinances, laws, and regulations based on the fact that the combined lot will have an area of 4.1 acres. The required minimum lot size for lots in a Two-Acre Lot Subdivision is 80,000 square feet after deducting land not suitable for development. Under 9.5 Land Not Suitable for Development, there is no land that needs to be deducted. Lots in a Two-Acre Lot Subdivision are required to have a minimum of 150 feet of road frontage. The combined lot has over 400 feet of frontage. The existing improvements were constructed years ago and no changes to them are proposed. Motion carries 5-0.

Aaron Fuchs moved seconded by David Chipman that the following approval standards are not impacted by the combination of the two lots and are therefore met since this is an existing developed lot and no changes are proposed that relate to them that are not addressed in 9.1.:

- 9.2. Municipal Services**
 - 9.3. Preservation of the Landscape**
 - 9.4. Lots**
 - 9.5. Land Not Suitable for Development**
 - 9.6. Required Improvements**
 - 9.6.1 Lot Markers**
 - 9.6.2 Water Supply**
 - 9.6.3 Sewage Disposal**
 - 9.6.4 Fire Protection**
 - 9.7. Erosion and Sedimentation Control**
 - 9.8. Utilities**
 - 9.9. Construction in Flood Hazard Areas**
 - 9.10. Impact on Wetlands**
 - 9.11. Impact on Groundwater**
 - 9.12. Stormwater Management**
 - 9.13 Offshore Islands**
 - 9.14. Aesthetic, Cultural, and Natural Values**
 - 9.15. Traffic**
 - 9.16. Homeowners/Landowners Association**
 - 9.17. Community Dock**
- Motion carries 5-0.**

David Chipman moved seconded by Burr Taylor that the Planning Board finds that the applicant, David Fey, has met the standards of the town of Harpswell Subdivision Ordinance. And approves the application with the following standard conditions of approval:

- 1. This approval is not final until such time as the final plan has been signed by the Planning Board.**
 - 2. This approval is based on the approved plan prepared by MidCoast Survey Co. and dated August 6, 2016, and on all submissions and information provided by the applicant at final approval, whether referenced in any findings or conditions of approval.**
 - 3. This approval is dependent upon and limited to the proposal and plan contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plan, proposals, and supporting documents, except de minimis changes as determined by the Town Planner that do not affect approval standards, is subject to the review and approval of the Planning Board prior to implementation.**
- Motion carries 5-0.**

16-09-02 – Frank Wnek, President (Applicant), High Head Yacht Club (Owner) Map 6-7, High Head Road Causeway, Harpswell – Culvert Replacement and Wetland Alteration

Mr. Wnek showed the Board pictures of the High Head Causeway from 1970 and more recent pictures to show the difference. Mr. Wnek explained the older construction and materials used to build the causeway, culvert and rip-rap. He said they contracted Walsh Engineering to permit the new culvert and new rip-rap.

Mr. Silas Canavan, Walsh Engineering, explained in detail the project to replace the culvert, shoreline stabilization/rip-rap, and wetland alteration.

Mary Ann Nahf, Conservation Commission said the commission is watching this project because of the wetlands resilience to sea level rise. The commission is interested to watch this project as it goes forward to see the changes to the wetlands.

**Aaron Fuchs moved seconded by David Chipman that:
Within the Basic Land Use Ordinance, Sections:
13.4.7.3 – 13.4.7.7 –
Within the Shoreland Zoning Ordinance, Sections:
15.3.2 – 15.3.6 – 15.3.7 – 15.3.8 – 15.3.9 – 15.8
Do Not Apply. Motion carries 5-0.**

David Chipman moved seconded by Aaron Fuchs that Section 13.4.7.1 is met based on the proposed project is intended to remedy deteriorating conditions on the causeway, reduce erosion, minimize the potential for overtopping of the causeway in storms, and enhance the natural flow through the culvert thereby improving the wetlands. Motion carries 5-0.

David Chipman moved seconded by Burr Taylor that Section 13.4.7.2 meets that requirement based on the fact that this upgrade will actually remedy an existing erosion problem by replacing the deteriorated rip-rip to better stabilize the slopes. Detailed erosion control measures will be utilized during the construction to minimize sedimentation. Motion carries 5-0.

David Chipman moved seconded by Burr Taylor that Section 13.4.7.4 is met based because it increases the flow through the culvert will be beneficial to the wetland habitat. Motion carries 5-0.

David Chipman moved seconded by Burr Taylor that Section 13.4.7.5 is met which will conserve shore cover and points of access to inland and coastal waters. The applicant states that there will be some minimal disturbance to the wetland during the replacement of the culvert. The access to the waters will not change with this project. Motion carries 5-0.

David Chipman moved seconded by Aaron Fuchs that Section 13.4.7.6 will protect archaeological and historic resources as identified in the Town's Comprehensive Plan, or by the Maine Historic Preservation Commission or the National Park Service based on the fact

that since this is a replacement/improvement of the existing causeway, it appears that no historic or archaeological resources will be impacted. Motion carries 5-0.

David Chipman moved seconded by Allan LeGrow that the Planning Board finds under Section 13.4.7.8 will avoid problems associated with flood plains development and use based on the fact that the causeway is located within the currently mapped flood Hazard Area. The road is being raised to prevent overtopping in storm situations. The larger culvert will alleviate problems with “damming”. Motion carries 5-0.

David Chipman moved seconded by Burr Taylor that the Planning Board finds under Section 15.3.1 of the Shoreland Zoning Ordinance, access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion based on the fact that this proposed project is designed to remedy current restrictions to tidal flow and erosion. By replacing the existing culvert and rip-rap, existing erosion issues will be reduced. Access to the causeway will be unchanged. Motion carries 5-0.

David Chipman moved seconded by Burr Taylor that the Planning Board finds under Section 15.3.3, the facility shall be located so as to minimize adverse affects on fisheries based on the fact that this project will potentially improve fisheries by improving the tidal flow to the marsh. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.3.4, the facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. Section 15.3.4.1, non-commercial, private piers, docks and wharves shall have a maximum width of 6 feet and shall not extend below low water. Section 15.3.4.2, Commercial piers, docks and wharves shall be limited to twelve (12) feet in width. Section 15.3.4.3, the maximum width of community docks is as set forth in Section 15.23 based on the fact that this project essentially replaces existing facilities. The replacement culvert is designed to accommodate the existing stream flow. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.3.5, No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or within a freshwater wetland described in Section 3. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.16.1, that all activities that require a permit and involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions will be carried out in accordance with a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include provisions for 15.16.1.1. Mulching and re-vegetation of disturbed soil. The submission includes a detailed erosion and sedimentation control plan.

15.16.1.2. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

The erosion control plan provides for the use of silt fencing or mulch barriers. The slopes will be stabilized at the end of each day while the rip-rap is being replaced.

15.16.1.3. Permanent stabilization structures such as retaining walls or riprap. Permanent stabilization structures permitted by this section must be approved in advance, in writing, by the Code Enforcement Officer and shall be no larger than necessary to stabilize the area. No retaining wall shall be approved if there is an alternative method of stabilization available. The existing deteriorating rip-rap will be replaced with non-porous rip-rap in essentially the same location. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.16.2, the project is designed to fit with the topography and soils of the site, based on the following: The project involves the replacement/improvement of an existing private road. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.16.3, Erosion and sedimentation control measures will apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction will be minimized to reduce the potential for erosion based on the following, the erosion control plan provides for the use of silt fencing or mulch barriers. The slopes will be stabilized at the end of each day while the rip-rap is being replaced. Motion carries 5-0.

Burr Taylor moved seconded by David Chipman that the Planning Board finds under Section 15.16.4, Any exposed ground area shall be temporarily stabilized by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within one (1) year of the initial date of exposure. In addition: 15.16.4.1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established. 15.16.4.2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover. 15.16.4.3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences. The erosion control plan provides for the use of silt fencing or mulch barriers. The slopes will be stabilized at the end of each day while the rip-rap is being replaced. Motion carries 5-0.

Aaron Fuchs moved seconded by Burr Taylor that the Planning Board finds under Section 15.16.5, Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap based on the following: The inlets to the replacement culvert are designed to minimize scouring. Motion carries 5-0.

Aaron Fuchs moved seconded by Burr Taylor that the Planning Board finds under Section 15.17, that the land uses shall be located on or upon soils in which proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during, on, or after construction based on the following: This proposed project involves the

reconstruction and improvement the causeway in its present location on the existing soils. Motion carries 5-0.

Aaron Fuchs moved seconded by Burr Taylor that no activity shall deposit on or into the ground or discharge to the water of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of a great pond, stream, tributary stream, coastal wetland or freshwater wetland.

No activity shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into the surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances. The project involves the improvement of an existing private road. The potential for any contamination of the adjacent wetlands will not be altered as a result of the improvements. Motion carries 5-0.

David Chipman moved seconded by Allan LeGrow that the Planning Board finds under Section 13.4.7.9 the project is in conformance with the provisions of Section 15 of the Land Use Standards of the Shoreland Zoning Ordinance. Motion carries 5-0.

David Chipman moved seconded by Aaron Fuchs that the applicant High Head Yacht Club has met the standards of the Town of Harpswell's Basic Land Use Ordinance and the Planning Board approves the application with the standard conditions of approval. Motion carries 5-0.

Communication: A workshop is scheduled for October 5, 2016 for 6:30 at the Town Office.

Planners Update: 1) Standards regulating individual development regarding erosion control.
2) Mitchell Field – Workshop on Tuesday, October 4th on possible replacement of the pier.
3) Mitchell Field – Contract with Darcie Cortour to start work on the habitat studies on the demolition materials to be used as a natural reef.
4) Mitchell Field – Water Tower Taskforce meeting to look at the future of the water tower.

The next regular Planning Board meeting will be October 19, 2016.

Allan LeGrow told the Board that the Harpswell Fire Rescue will hold a meeting regarding opening a centralized station on Mountain Road close to the EMS building.

Adjournment: Meeting adjourned at 8:05 PM

Respectfully submitted by:

Diane E. Plourde
Recording Secretary